

DEVELOPMENT REVIEW COMMITTEE

Tuesday, October 23, 2018

MEETING MINUTES

The Monroe County Development Review Committee conducted a meeting on **Tuesday, October 23, 2018**, beginning at 1:00 p.m. at the Marathon Government Center, Media & Conference Room (1st floor, rear hallway), 2798 Overseas Highway, Marathon, Florida.

CALL TO ORDER by Emily Schemper

ROLL CALL by Debra Roberts

DRC MEMBERS

Emily Schemper, Assistant Director of Planning and Environmental Resources	Present
Mike Roberts, Sr. Administrator, Environmental Resources	Present

STAFF MEMBERS

Steve Williams, Assistant County Attorney	Present
Peter Morris, Assistant County Attorney	Absent
Bradley Stein, Development Review Manager	Present
Janene Sclafani, Senior Planner	Present
Debra Roberts, Senior Coordinator	Present
Deborah Griffin, Assistant	Present

CHANGES TO THE AGENDA

There were no changes to the agenda.

MINUTES FOR APPROVAL

Approval of the meeting minutes for Tuesday, September 25, 2018.

MEETING

1. CERTIFIED LOWER KEYS PLUMBING, 5660 LAUREL AVE, STOCK ISLAND, MILE MARKER 5: A PUBLIC MEETING CONCERNING A REQUEST FOR A MINOR CONDITIONAL USE PERMIT. THE REQUESTED APPROVAL IS REQUIRED FOR THE DEVELOPMENT OF A PROPOSED LIGHT INDUSTRIAL USE INVOLVING AN 1,872 SQUARE FOOT WAREHOUSE BUILDING TO STORE PLUMBING SUPPLIES AND FIXTURES. THE SUBJECT PROPERTY IS DESCRIBED AS SQUARE 31, LOT 6, STOCK ISLAND MALONEY SUBDIVISION, PLAT BOOK 1, PAGE 55, STOCK ISLAND, MONROE COUNTY, FLORIDA, HAVING REAL ESTATE NUMBER 00124400-000000. (FILE #2018-163)

Ms. Janine Sclafani, Sr. Planner, presented the staff report. The applicant is requesting a Minor Conditional Use as required per Code for the Mixed Use Land Use District. It is a request for a light industrial use involving a 1,872 square foot warehouse for plumbing supplies and fixtures,

to include three proposed parking spaces, a loading zone, landscaping buffer yards and other improvements. It is located at 5660 Laurel Avenue, Stock Island. The Land Use District is Mixed Use and the Future Land Use District is Mixed Use Commercial. The surrounding community character is Mixed Use Commercial Retail and Residential. Issues needing to be resolved are as follows: The submitted traffic statement dated July 20, 2018 was reviewed by the County transportation consultant whose comments have not yet been received nor addressed. The proposed facility is anticipated to generate four daily trips, one inbound and one outbound during a.m. and p.m. peak hours. Emergency Management also has comments which need to be addressed prior to building permit review. That letter of coordination from the Office of the Fire Marshal was dated July 20, 2018. There is one loading and unloading space which is not in compliance. It is required to be 55-by-11 feet. A letter dated August 10, 2018, from Karl B. Peterson of KBP Consulting indicates that 9-1/2 feet by 35 feet is sufficient for the anticipated delivery truck most likely to use the loading space, which is eight feet in width. Prior to issuance of the Development Order, the Monroe County Traffic Consultant's comments must be addressed, and a revised plan submitted indicating a 9-1/2-by-35-foot loading and unloading space, consistent with the letter from KBP Consulting. Staff recommends approval once conditions have been met. Prior to issuance of any building permit, the NROGO allocation and a right-of-way permit must be obtained, compliance with LDC Section 114-14 for required screening of collection area and bicycle parking must be demonstrated, and outdoor lighting and a photometric plan are required. Office of the Fire Marshal comments must be addressed prior to construction document submittal. The Minor Conditional Use is not approval for certain development. Building permits shall be obtained. All work must be in compliance with the Florida Building Code, Flood Plain Administrator and Office of the Fire Marshal.

Ms. Schemper asked for questions or comments from staff. There were none. Ms. Schemper clarified with the applicant that it was understood there were two conditions needing to be resolved before the Development Order would be signed, that being the traffic study comments to be addressed and the revised plan showing the loading space measurements being consistent with the engineer's letter. The second set of conditions would need to be resolved at the time of building permit, and the lighting condition must be done prior to issuance of a building permit. Ms. Pricilla Ceja indicated that she understood, and asked for confirmation that Item 1A were comments made by A.E. Com on September 10, which Ms. Schemper confirmed. Ms. Schemper asked for public comment. There was none.

Mr. Mike Roberts asked if Items 2 and 3 could be read together.

2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING SECTION 101-1 OF THE MONROE COUNTY LAND DEVELOPMENT CODE CREATING A DEFINITION OF NESTING AREA; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR AN EFFECTIVE DATE.
(File 2016-123)

3. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING SECTION 101-1 OF THE MONROE COUNTY LAND DEVELOPMENT CODE CREATING A DEFINITION OF OFFSHORE ISLAND; AMENDING SECTION 118-10 OF THE LAND DEVELOPMENT CODE TO FURTHER CLARIFY THE DEVELOPMENT OF OFFSHORE ISLANDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR INCLUSION IN THE MONROE COUNTY LAND DEVELOPMENT CODE; PROVIDING FOR AN EFFECTIVE DATE.
(File 2016-124)

Mr. Mike Roberts, Sr. Administrator, Environmental Resources, presented the staff report, explaining that the reason he had wanted the items read together was that the definition for nesting area had become necessary when that term was used in the new proposed language for offshore islands in 118. Both of these had come about as a result of a public hearing during the Comp Plan and Development Code updates, and were dealt with separately at the request of the County Commission.

As to the nesting area, there were a number of public meetings where the need for a definition and what the definition should be endured quite a bit of public input, and the proposed definition is reflective of that public input. Mr. Roberts then read the definition: "Nesting areas (for birds) means those areas that birds use for nesting. This applies to wading birds, hawks, falcons, seabirds, shore birds and any bird species federally or state listed as endangered threatened or a species of special concern. This definition does not apply to non-native, invasive or nuisance species." There had been a lot of discussion as to whether to use colonial birds, semi-colonial nesting birds, but staff felt that this definition included all of the affected populations that may or may not use shoreline specifically for nesting.

As to offshore islands, this ordinance had also come about as a result of the Comp Plan update. Mr. Roberts read the definition for offshore island as, "Offshore island means an area of land surrounded by water which is not directly or indirectly connected to U.S. 1 by a bridge, road or causeway." In the proposed regulations for those offshore islands is an amendment to Chapter 118-10(d) of the Land Development Code. "All structures developed, used or occupied on land classified as an offshore island shall be designed, located and constructed such that: (1) Development shall be prohibited on offshore islands, including spoil islands, which have been documented as an established bird rookery or nesting area based on resource agency best available data or surveys. (2) New resource extraction pits shall be prohibited on offshore islands. (3) Campgrounds and marinas shall not be permitted on offshore islands. However, temporary primitive camping by the owner in which no land clearing or other alteration of the island occurs, shall be the only use of an offshore island which may occur without necessity of a permit. (4) The use of any motorized vehicles, including but limited to trucks, carts, buses, motorcycles, all-terrain vehicles and golf carts shall be prohibited on offshore islands that do not contain any development. (5) Planting with native vegetation shall be encouraged whenever possible on spoil islands. (6) County public facilities and services, including electricity over which the PSC of the State of Florida exercises jurisdiction shall not be extended to offshore islands. The extension of public facilities shall be required to comply with Policy 101.12.2.

Subsequent to the publication of the staff reports on September 25, 2018, there was a community meeting on October 11, 2018 at the Marathon Government Center to discuss both proposed amendments. Present at the meeting were Mr. Roberts, Mr. Bill Hunter, Mr. Bart Smith, Ms. Dottie Moses and Ms. D.A. Aldridge. There were no recommendations or comments for the proposed nesting area amendment. There was some good conversation regarding the offshore island amendment. In the memo summarizing the public meeting, on the proposed (d)(1), the discussion was whether this paragraph would apply to new development only or redevelopment or expansion, because the way it's worded now, it would apply to everything, including Little Palm. Mr. Roberts thought the language may need to be tweaked. Ms. Schemper agreed that it may need to be clarified, as the way it's worded now, any existing development would be subject to the nonconforming uses code. Mr. Roberts added that there were also comments and recommendations to extend the prohibition to offshore islands that are documented habitat for any or all imperiled species, rather than the way it's worded now which is just for bird rookeries and nesting areas, though he was not sure that could be done. Ms. Schemper commented that she believed that had been discussed during the Comp Plan review and was not supported.

Mr. Roberts continued that there were no public comments on resource extraction, campgrounds or motorized vehicles. There had been some discussion on the planting of native vegetation with a recommendation to establish specific requirements or standards for native landscaping for offshore islands in conjunction with any development, so that it wouldn't be just spoil islands but any offshore island. Ms. Schemper asked if that meant planting requirements additional to what is already required in the Code. Mr. Roberts confirmed that to be correct, stating that there is nothing else in the Code relative to landscaping that he could foresee being triggered, so that recommendation was to encourage native planting with any development. Ms. Schemper asked for further clarification, whether the recommendation was to keep number five as is, but for all offshore islands; or, to just not encourage but somehow require. Mr. Roberts responded that it was both. Mr. Roberts concluded that there had been no other substantive recommendations or suggestions relative to the amendments. Ms. Schemper indicated the recommendations may need to be tweaked before Planning Commission.

Ms. Schemper asked for further questions or comments from staff. There were none. Ms. Schemper asked for public comment. Mr. Bart Smith, on behalf of FEB Corp, wanted to confirm that "established" applies not only to bird rookeries but also to nesting areas. So it wouldn't be just any nesting area, that it has to be an established nesting area that is covered. Mr. Roberts confirmed that to be correct. Mr. Williams then confirmed with Mr. Smith that at the time this was drafted, FEB Corp was not involved in litigation for any offshore islands as defined, but that they are now; and then asked Mr. Smith if there were any counterclaims for injunctive relief that may be expected to be seen, as he knew there was a complaint filed for Wisteria Island but no response filed. Mr. Smith confirmed that to be correct, adding that his client was still in the process of retaining counsel that will be representing them in this action. Mr. Williams expressed that he was concerned with timing and keeping that in mind, adding that the U.S. Government has sued FEB Corporation within the last 30 days. Mr. Smith responded that they were asking for the same determination that FEB Corp had asked for many years ago.

Mr. Bill Hunter asked about the wording of "an established nesting area or rookery" and "based on resource agency and best available data," and how that was actually done or verified. Mr.

Roberts responded that the regulation as proposed, is documented as, an established bird rookery or nesting area based on resource agency best available data or surveys. So the resource agency best available data would be whatever is currently available through either the National Marine Fishery Service, the Sanctuary data, U.S. Fish and Wildlife Service or Fish and Wildlife Conservation Commission, all of which have maps to some degree or other. Surveys can be conducted by either County biologists or by biological consultants that have been deemed by County staff to be a qualified consultant in accordance with Chapter 118, and staff would then verify that data. Mr. Hunter asked if it would be just at a point in time when that survey was taken. Mr. Roberts clarified that absent any historical data, the survey would be relied on. In the presence of historical data and a current survey, if the two were not consistent, that would need to be evaluated.

Ms. Schemper asked for further public comment. There was none.

ADJOURNMENT

The Development Review Committee meeting was adjourned at 1:30 p.m.